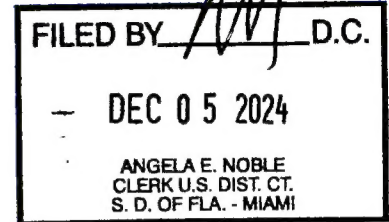


SEALED



**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No.: _____

MARIO MIRABAL,

Plaintiff,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY,

Defendant.

COMPLAINT UNDER THE FALSE CLAIMS ACT (31 U.S.C. § 3729 et seq.)

INTRODUCTION

This is a Qui Tam Action under the False Claims Act, 31 U.S.C. § 3729 et seq., brought by Mario Mirabal ("Relator" or "Plaintiff") on behalf of the United States of America, against Deutsche Bank National Trust Company ("Defendant"), alleging fraudulent claims, fraud upon the government, and violations of the False Claims Act, which have caused harm to the United

States.

Relator alleges that Defendant knowingly submitted, or caused to be submitted, false claims for a government-backed mortgage that was invalidly assigned to Defendant, specifically related to the mortgage note originally held by IndyMac Bank, FSB, which failed in 2008 and was later sold to Deutsche Bank after the FDIC declared that there were insufficient assets in IndyMac's receivership.

The fraudulent conduct described herein involves fraudulent mortgage assignments, false claims regarding the legitimacy of those assignments, and the ongoing assertion of rights and claims that were extinguished when IndyMac was closed by the FDIC, and claims made against government-insured assets.

JURISDICTION AND VENUE

This Court has jurisdiction over this matter under 31 U.S.C. § 3732 (False Claims Act) and 28 U.S.C. §§ 1331, 1345 (federal question and government suits).

Venue is proper in this district pursuant to 31 U.S.C. § 3732(a) because Defendant resides, and/or conducts business, in this judicial district, and the claims arose in substantial part within this district.

PARTIES

Relator, Mario Mirabal, is the Debtor in the underlying bankruptcy case (Case No. 23-20131-CLC) (Adversary case No:24-01418-CLC) and a motion filed under Florida Rule of Civil Procedure 1.540(b) in case No: 2018—018704—CA-01) and a citizen of the United States. Relator brings this action in both his own name and on behalf of the United States of America under the False Claims Act.

Defendant, Deutsche Bank National Trust Company, is a financial institution headquartered in One Columbus Circle New York, NY, 10019 and doing business throughout the United States. At all relevant times, Defendant acted as a trustee for Indymac's mortgage-backed securities, including those that are the subject of this Qui Tam action.

FACTUAL ALLEGATIONS

Background:

On July 11, 2008, IndyMac Bank, a federally insured institution, was closed by the Office of Thrift Supervision due to insolvency, and the FDIC was appointed as its receiver.

FDIC's Role:

As the receiver, the FDIC transferred all insured deposit accounts and substantially all of the assets of IndyMac to IndyMac Federal Bank, FSB, a newly chartered FDIC-insured institution. On March 19, 2009, IndyMac Federal Bank was sold to OneWest Bank, a newly formed financial

institution.

FDIC's Determination:

The FDIC declared that the receivership of IndyMac had insufficient assets to make any distribution to general unsecured claims and determined that no value would be assigned to claims from IndyMac's receivership as of November 12, 2009.

Defendant's Fraudulent

Claims: Despite the FDIC's official determination that IndyMac's assets were insufficient to pay general unsecured claims, Deutsche Bank National Trust Company continued to assert a claim against Relator's property based on an invalid mortgage note that was transferred to Deutsche Bank from IndyMac nearly two years after IndyMac's corporate failure and during the period in which IndyMac's assets were deemed insufficient by the FDIC.

Invalid Assignment:

Deutsche Bank's claim is based on an invalid assignment executed by the Law Offices of David J. Stern, a law firm widely associated with fraudulent foreclosure practices, and signed by Ericaka A. Johnson-Seck, a known robo-signer. The assignment itself occurred well after the failure of IndyMac and the FDIC's determination that no general unsecured claims would be satisfied, 1189 days after the PSA's closing date.

Defendant's False Claims:

By continuing to pursue this fraudulent claim and asserting rights to a mortgage note that had already been discharged by the FDIC's actions,

Defendant has submitted false claims to the United States government by attempting to collect a debt already satisfied by government-backed programs, specifically involving the insured mortgage portfolio under the FDIC's receivership of IndyMac.

Deutsche Bank Trust Corporation ("DBTC"), which is a wholly owned subsidiary of DBAG. DBTCA is a New York State chartered bank regulated by the New York State Department of Financial Services ("NYSDFS"). DBTCA is also a member of the Federal Reserve System and an FDIC-insured bank and, accordingly, is regulated by the Board of Governors of the Federal Reserve System (the "Federal Reserve") and the FDIC. DBTCA is also a transfer agent registered with the Securities and Exchange Commission ("SEC").

As detailed in the 2015 IDI Resolution Plan for Deutsche Bank Trust Company Americas ("DBTCA"), Deutsche Bank was aware of the critical importance of maintaining integrity in its financial transactions and the necessity of protecting U.S. taxpayers and the financial system from undue risk. The 2015 IDI Resolution Plan specifically discusses Deutsche Bank's commitment to ensuring that its operations, including those of DBTCA, would avoid the creation of fraudulent claims against the U.S. government, such as those related to claims against mortgages that had already been satisfied. The plan outlined resolutions sought to limit exposure to taxpayer-funded relief and avoid financial actions that could trigger unnecessary costs to the FDIC or the DIF.

By continuing to pursue a mortgage claim that had already been resolved by the FDIC's intervention, Deutsche Bank, with knowledge of its prior settlement, submitted a false claim under the False Claims Act. This direct violation of the principles outlined in Deutsche Bank's own resolution strategy constitutes fraud and an attempt to circumvent the FDIC's resolution process, thereby undermining the federal safeguards established to prevent such actions .

Relator's Efforts:

Relator has filed multiple motions in related court proceedings, including the bankruptcy case and state court actions, to contest these fraudulent claims, including a Rule 1.540(b) motion to vacate the judgment and ongoing adversary proceedings in the bankruptcy court against Deutsche Bank and KP Investments Miami, LLC for fraud.

REQUEST FOR RESTRAINING ORDER :

Relator requests that the Court issue a temporary restraining order or preliminary injunction to prevent Deutsche Bank from proceeding with any foreclosure or enforcement actions on the mortgage note, pending the resolution of this case, in order to prevent further harm to the Plaintiff and the public trust.

REQUEST FOR SUBPOENA OF FDIC RECORDS :

Relator requests that the DOJ subpoena the following records from the FDIC to uncover the full extent of this fraud:

A comprehensive list of IndyMac-originated loans assigned to Deutsche Bank between July 11, 2008 and December 31, 2011.

Internal correspondence or policies related to FDIC's oversight of these assignments.

Documentation of any foreclosure proceedings initiated by Deutsche Bank on IndyMac loans during this period.

Significance for False Claims Act

These records are critical for demonstrating that Deutsche Bank knowingly violated the False Claims Act by asserting rights to loans invalidated during the FDIC receivership.

REQUEST FOR DOJ SUBPOENA OF CLERKS OF COURT RECORDS:

Clerks of Court as Critical Record Keepers

Given the potential absence of FDIC records of fraudulent assignments made post-IndyMac closure, Relator asserts that local clerks of court hold a reliable records of these assignments.

Focus on Assignments Filed Post-IndyMac Closure

Relator asserts that Deutsche Bank frequently filed assignments of IndyMac-originated loans well after IndyMac's closure and the FDIC's determination that no value could be assigned to such assets. Many of these assignments were executed retroactively to justify foreclosure actions that Deutsche Bank had already initiated.

Scope of Records to Subpoena

To uncover the full extent of this fraudulent activity, Relator requests that the DOJ subpoena the following from clerks of court nationwide:

All mortgage assignments transferring loans from IndyMac to Deutsche Bank that were filed between July 11, 2008 , and December 31, 2011.

Any supporting documentation tied to these assignments, including dates of execution and recording.

Corresponding filings that indicate backdating or irregularities in the assignments' execution.

Recorded foreclosures linked to these assignments

Supporting documentation tied to these foreclosure filings.

Establishing Systemic Fraud

By examining nationwide records, Relator seeks to prove that Deutsche Bank systematically filed fraudulent assignments in numerous jurisdictions, violating the False Claims Act and causing extensive harm to the U.S. government.

CAUSES OF ACTION

COUNT I: VIOLATION OF THE FALSE CLAIMS ACT (31 U.S.C. § 3729)

Relator incorporates by reference all preceding paragraphs as if fully set forth herein.

Defendant has knowingly submitted false claims to the government by asserting rights to a mortgage note related to IndyMac, an entity that was no longer in existence at the time the claim was made and whose assets were insufficient to satisfy unsecured claims.

Defendant's actions, including the fraudulent assignments and the subsequent pursuit of a claim on the mortgage note, constitute a violation of the False Claims Act, 31 U.S.C. § 3729(a)(1), by submitting false claims and fraudulently attempting to circumvent the FDIC's determination.

False Representation:

The claims made by Deutsche Bank were materially false as they assert a claim that should not exist, violating federal statutes governing the treatment of assets in receivership and attempting to collect on debts that were already addressed through government-backed insurance programs.

Pattern of Fraud and Noncompliance by Deutsche Bank:

Deutsche Bank has a documented history of engaging in fraudulent practices and failing to comply with federal regulatory requirements, as evidenced by prior cases brought by the United States government. These cases underscore Deutsche Bank's systemic deficiencies in oversight, compliance, and adherence to federal laws, which are directly relevant to the fraudulent conduct alleged in this complaint.

1. United States v. Deutsche Bank AG and MortgageIT, Inc.

In *United States v. Deutsche Bank AG and MortgageIT, Inc.*, the defendants admitted to making fraudulent certifications about the quality of loans insured by the Federal Housing Administration (FHA). Despite knowing that these loans did not meet the required standards, Deutsche Bank and its subsidiary certified them as compliant, leading to substantial financial losses for the U.S. government. This case resulted in a \$202 million settlement, illustrating the severity of the harm caused by Deutsche Bank's actions.

The fraudulent certifications in the MortgageIT case parallel Deutsche Bank's conduct in this matter. Here, Deutsche Bank asserts claims against federally backed assets based on mortgage assignments it knows to be

invalid. Just as the defendants in MortgageIT undermined federally insured programs by certifying false loan quality, Deutsche Bank's fraudulent assignments of IndyMac-originated loans violate the integrity of the FDIC's receivership process and improperly burden federal insurance mechanisms.

2. U.S. Commodity Futures Trading Commission v. Deutsche Bank AG

In U.S. Commodity Futures Trading Commission v. Deutsche Bank AG, the defendant was found to have violated federal regulations governing swap data reporting, including systemic supervisory failures and noncompliance with the Commodity Exchange Act. Deutsche Bank's negligence led to inaccurate and untimely reporting, further compounded by inadequate oversight and a failed disaster recovery plan. The case resulted in a \$9 million penalty and the appointment of an independent monitor to oversee compliance.

The supervisory deficiencies identified in the CFTC case directly relate to the issues in this complaint. Deutsche Bank's failure to maintain adequate internal controls and oversight allowed it to assert rights over mortgage assets it had no legal claim to. The institutional negligence demonstrated in the CFTC case provides a clear precedent for Deutsche Bank's failure to adhere to legal and regulatory standards in its handling of IndyMac-originated loans.

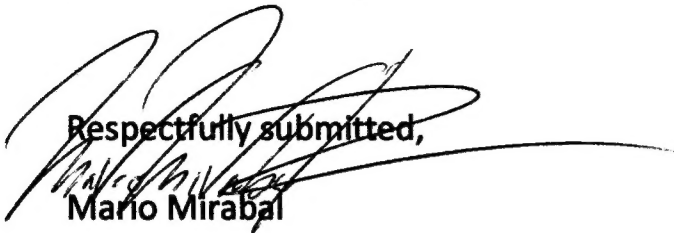
Damages:

As a result of Deutsche Bank's false claims, the government has been unjustly exposed to the risk of having to pay on a debt that was never valid. Defendant's conduct has caused significant harm and damage to the integrity of the justice system in all proceedings and the public trust.

RELIEF REQUESTED

WHEREFORE, Relator respectfully requests that this Court enter judgment in favor of the United States of America, as follows:

- a. Awarding damages for the false claims submitted by Deutsche Bank, as provided for under the False Claims Act.**
- b. Declaring the assignment of the mortgage note to Deutsche Bank as invalid and unenforceable.**
- c. Ordering Deutsche Bank to cease all efforts to collect on the mortgage note.**
- d. Awarding the relator (Plaintiff) a percentage of the recovery as required by the False Claims Act.**
- e. Awarding attorney's fees, costs, and any other relief the Court deems just and proper.**


Respectfully submitted,
Mario Mirabal

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All re-filed Cases Below.**

MAG JUDGE